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EDITED BY MADALYNNE REUTER

Penguin Sues Walsh, Iran-Contra Prosecutor

Penguin USA and the author of a book giving a behind-the-scenes account of the trial of Oliver North have sued Iran-Contra prosecutor Lawrence E. Walsh, charging him with a "blatant attempt" over the past 18 months to block publication of the book.

Penguin said it intends to proceed with the Viking hardcover publication of *Opening Arguments: A Young Lawyer's First Case—United States v. Oliver North* by Jeffrey R. Toobin, a former associate counsel on Walsh's team in the Office of Independent Counsel.

In the suit filed November 28 in U.S. District Court in Manhattan, Penguin and Toobin, citing the First Amendment, seek an injunction to prevent Walsh and the OIC from hindering publication, and Toobin seeks a declaratory judgment that publication will not violate two confidentiality agreements he signed on the day he left the OIC after two years of service.

Prior to his departure on May 4, 1989, Toobin says in the suit, he told Walsh he was considering writing a book on his experiences; Walsh voiced no objection in principle and said he was considering writing a book of his own, Toobin alleges. He contends that he fulfilled his obligations under the two nondisclosure agreements by submitting drafts of his manuscript to the OIC and by excising classified information identified by the OIC. He charges that the OIC invoked rule 6(e) of the Federal Rules of Criminal Procedure in an attempt to cloak the ordinary business of the office "with the veil of grand jury secrecy." He notes that both the CIA and the Justice Department had no objections to his manuscript.

Are Disclosure Contracts Constitutional?

Even if he had breached the two agreements, Toobin argues, he would not be liable because they unconstitutionally restrict his rights to free of speech and because they were not signed as a precondition of his employment but as an afterthought on his last day of employment.

Toobin and Penguin assert they have no alternative to the suit "after experiencing a year and a half of stonewalling, specious objections and intimidation"; they say the OIC intimidates by asserting that publication of the book will subject them to criminal and civil liability and that Toobin would lose his present job as an assistant U.S. Attorney in Brooklyn.

Walsh's Response

Mary Belcher, spokesperson for Walsh, said, "We intend to respond to Mr. Toobin in court." She said that Toobin "seeks to publish nonpublic aspects of the criminal investigation conducted by our office. This information includes the identities of people investigated but not indicted and possible charges considered but not brought by this office. We believe that such disclosures not only would violate Mr. Toobin's legal obligations but also would be unfair to the individuals involved and harmful to the continuing work of this office." Asked if Walsh were considering a book of his own, Belcher said, "I'm not free to comment on that."

Toobin is represented by David Boies, who in 1985 defended CBS in a libel suit filed by Gen. William Westmoreland.

Penguin USA is represented by Martin Garbus, who said, "It is both ironic and unfortunate that Mr. Walsh—who has sought to unveil government secrets in his investigation—is now attempting to prevent publication of a book that sheds light on a matter of great public importance."

—MADALYNNE REUTER

AAP Sales Report for October

Category	% change, October*	% change, YTD
Adult hardcover	17.9	8.2
Adult paperback	22.3	7.3
Juvenile hardcover	2.5	25.8
Juvenile paperback	-18.0	11.8
Univ. pr. hardcover	8.4	6.4
Univ. pr. paperback	88.5	22.5
Bibles, etc.	39.9	10.8
Mass market paperback	1.4	10.1
Book club	11.8	1.5
Mail order	-14.8	-14.9
Sci-tech	-18.7	6.1
College texts	20.0	8.0
School texts	14.9	4.3

*Percent changes measured against same time periods, 1989.

Out of Line

by Mort Gerberg

"No, NO—they've ASSURED us that they'll make no changes whatsoever in our operation."

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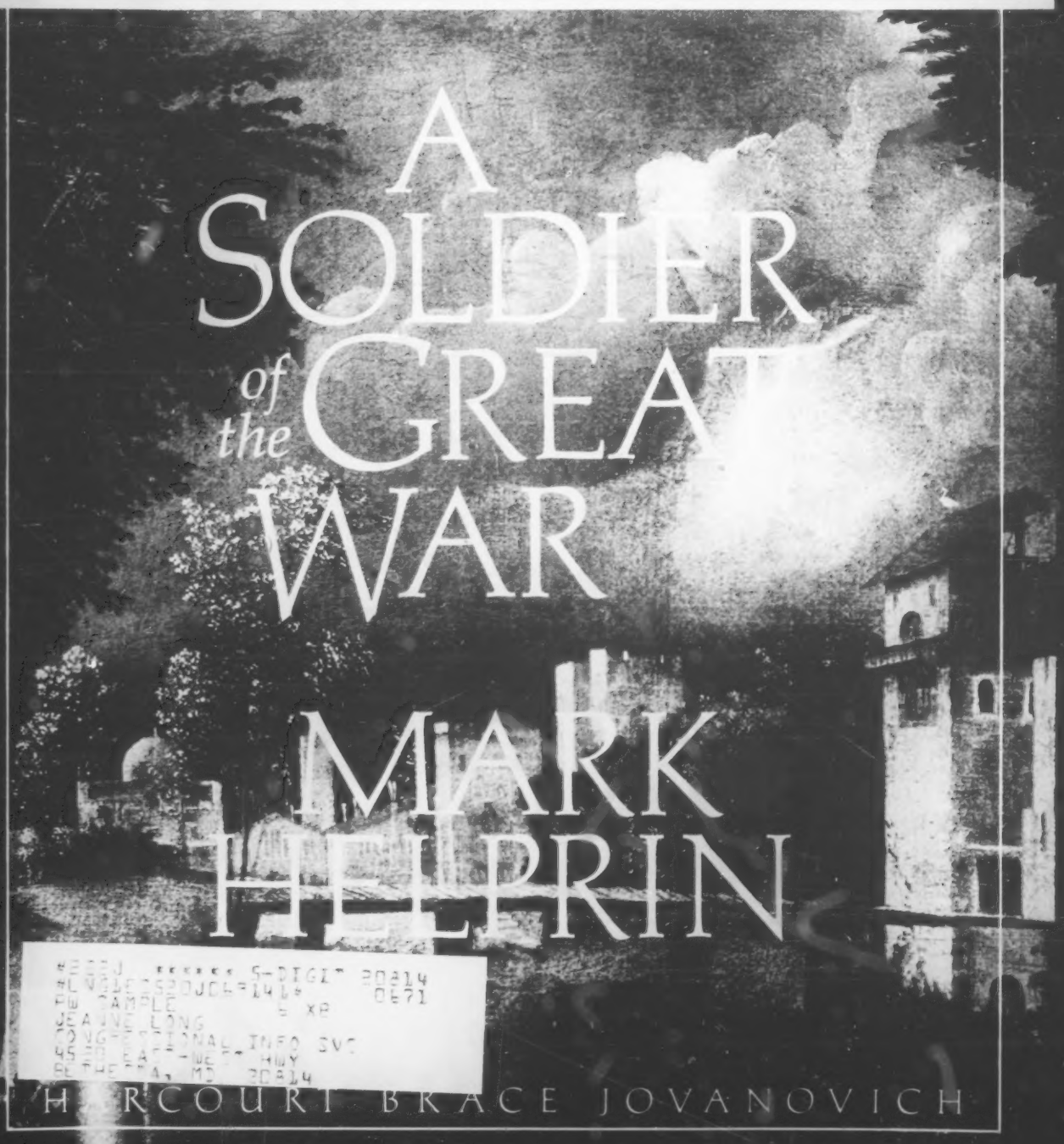

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The Biggest Publishers

PW's Annual Listing

Company	Latest Revenues (in millions)	Previous Revenues (in millions)	% Change
1. Simon & Schuster	1320 (est.)	1300	1.5
2. Time Publishing Group	1140	988	15.0
3. Harcourt Brace Jovanovich	885 ('89)	880 ('88)	0.6
4. Random House	850 (est.)	800 (est.)	6.3
5. Reader's Digest	843.6	N/A	N/A
6. McGraw-Hill	739.9 ('89)	727.2 ('88)	1.8
7. Encyclopedia Britannica	650	624	4.2
8. Bantam Doubleday Dell	630 (est.)	600	5.0
9. Times Mirror	575	520	10.6
10. The Thomson Corp.	598 (est.)	500	19.6
11. Maxwell Macmillan	457 (est.)	300	52.3
12. HarperCollins	491	450	9.1
13. Grolier	470	443.3	6.0
14. Houghton Mifflin	404.4 ('89)	368.3 ('88)	9.8
15. Western Publishing	400	450	(11.1)
16. World Book Encyclopedia	338	310	9.0
17. John Wiley	282	259	8.9
18. Penguin USA	263	225	16.9
19. Putnam Group	221	200	10.5
20. St. Martin's	194	161	20.5

Figures are latest available, often for fiscal years ending in June 1990, sometimes later, from annual statements where available, otherwise from published reports or informed estimates. In cases of multinationals an effort has been made to separate out figures for U.S. based operations only. In conglomerates with other operations, figures are for book operations only.

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All other classifications, Wednesday, 9 days prior to mail date.

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